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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

BENJAMIN CESAR SALGADO,

Petitioner,

v.

MICHAEL B. MUKASEY, ** Attorney
General,

Respondent.

No. 06-71857

Agency No. A75-743-702

MEMORANDUM *

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted December 3, 2007***

Before: GOODWIN, WALLACE and HAWKINS, Circuit Judges.

Benjamin Cesar Salgado, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** Michael B. Mukasey is substituted for his predecessor, Alberto R. Gonzales, as Attorney General of the United States, pursuant to Fed. R. App. P. 43(c)(2).

*** The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

the Immigration Judge's ("IJ") decision denying his application for cancellation of removal and denying his motion to remand. To the extent we have jurisdiction it is conferred by 8 U.S.C. § 1252. We review the decision to deny a continuance for abuse of discretion. *See Nakamoto v. Ashcroft*, 363 F.3d 874, 883 n. 6 (9th Cir. 2004). We also review the decision to deny a motion to remand for an abuse of discretion. *See Ramirez-Alejandre v. Ashcroft*, 319 F.3d 365, 382 (9th Cir. 2003) ("Under BIA procedure, a motion to remand must meet all the requirements of a motion to reopen and the two are treated the same."). We dismiss in part and deny in part the petition for review.

We lack jurisdiction to review the BIA's discretionary determination that Salgado failed to show exceptional and extremely unusual hardship to a qualifying relative. *See Romero-Torres v. Ashcroft*, 327 F.3d 887, 890 (9th Cir. 2003).

Salgado's contention that the agency deprived him of due process by misapplying the law to the facts of his case does not state a colorable due process claim. *See Martinez-Rosas v. Gonzales*, 424 F.3d 926, 930 (9th Cir. 2005) ("traditional abuse of discretion challenges recast as alleged due process violations do not constitute colorable constitutional claims that would invoke our jurisdiction."); *see also Sanchez-Cruz v. INS*, 255 F.3d 775, 779 (9th Cir. 2001) (holding that the "misapplication of case law" may not be reviewed).

The IJ did not abuse his discretion in denying Salgado's motion for a continuance. *See Gonzalez v. INS*, 82 F.3d 903, 908 (9th Cir. 1996) (a decision to grant a motion for continuance will only be overturned upon a showing of an abuse of discretion).

Likewise, the BIA did not abuse its discretion in denying Salgado's motion to remand the case for administrative closure because Salgado failed show that he was prima facie eligible for relief. *See Limsico v. INS*, 951 F.2d 210, 213 (9th Cir. 1991).

PETITION FOR REVIEW DISMISSED in part; DENIED in part.